



State of Washington
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

M E M O R A N D U M

TO: Members, Public Disclosure Commission

FROM: Susan Harris, Assistant Director

DATE: April 4, 2002

RE: **Amended** Executive Summary and Staff Recommendations Regarding Complaint and Citizen Action Letter Against Permanent Offense (a political committee), Permanent Offense, Inc., Traffic Improvement Initiative Committee, Tim Eyman, Karen Eyman, Suzanne Karr, Monte Benham, Jack Fagan and Mike Fagan

On February 6, 2002, Staff filed a formal complaint against Permanent Offense (Permanent Offense PAC), Permanent Offense, Inc., (a for profit entity), Traffic Improvement Initiative Committee and Tim Eyman to determine whether they:

1. Properly reported campaign expenditures, including the purpose of those expenditures, in accordance with RCW 42.17.080 and 42.17.090;
2. Concealed the fact that campaign funds were expended to compensate Mr. Eyman for services he performed on behalf of Permanent Offense PAC. in violation of RCW 42.17.120;
3. Used campaign funds for Mr. Eyman's personal expenses in violation of RCW 42.17.125; and
4. Established a second political committee, Permanent Offense, Inc., that failed to comply with the provisions of chapter 42.17 RCW or created Permanent Offense, Inc. as part of a political committee, Permanent Offense PAC, that failed to comply with the provisions of chapter 42.17 RCW.

Subsequent to Staff's complaint, on February 13, 2002, a citizen action letter from Richard Smith and Knoll Lowney, representing Permanently Offended, was sent to the Office of the Attorney General, who then forwarded the letter to PDC Staff for investigation. That letter alleged violations against Permanent Offense PAC, Permanent Offense, Inc, Traffic Improvement Initiative Committee, Tim Eyman, Karen Eyman and Suzanne Karr for:

1. Failing to file timely and accurate reports with the PDC for the activities of Permanent Offense PAC and Traffic Improvement Initiative Committee in violation of RCW 42.17.080 and 42.17.090;
2. Making expenditures in such a manner so as to effect concealment in violation of RCW 42.17.120; and
3. Using campaign contributions for personal expenses in violation of RCW 42.17.125.

Mssrs. Smith and Lowney sent a second letter, also received February 13, 2002, to the Office of the Attorney General alleging that Monte Benham, Jack Fagan and Mike Fagan also violated RCW 42.17.

Staff has concluded a preliminary investigation into all of the allegations.

Summary of Findings and Alleged Apparent Violations

Permanent Offense PAC was formed in 2000 to support Initiatives 710, 711 and 722. Of these, only Initiative 722 qualified for the ballot. Permanent Offense PAC later supported Initiative 747 (2001), which also qualified for the ballot. In 2002, Permanent Offense PAC is supporting Initiative 776, and is currently attempting to obtain sufficient voter signatures to place the measure on the ballot this fall.

Concealment of Campaign Expenditures – RCW 42.17.120

The investigation revealed that Tim Eyman and Suzanne Karr created Permanent Offense, Inc. as a Sub Chapter S Corporation on February 18, 2000. At that time, Tim Eyman was 51% owner and Suzanne Karr 49% owner. All profits of a Sub Chapter S Corporation must be claimed as income by the owners at the end of each calendar or fiscal year.

Staff maintains, based on documents received during the investigation, that Mr. Eyman and Ms. Karr violated RCW 42.17.120 when they used Permanent Offense, Inc. to conceal compensation paid to Tim Eyman for services provided to the political committee.

- a) An e-mail sent from Ms. Karr to Mr. Eyman on December 16, 1999, indicates that she had spoken with Alan Gottlieb. Ms. Karr said that Mr. Gottlieb told her that running money through a private organization would violate the spirit of the law and is “suicide,” and the media would eventually find out and “it will be uglier than ever.” She continued by saying that Mr. Gottlieb suggested they run all the money through PDC and pay Permanent Offense to manage the campaign like other political consulting firms do. Ms. Karr informed Mr. Eyman that if they create a corporation, that it be a for-profit entity, because if it were a non-profit entity, the salaries and expenses paid to principals would have to be disclosed. (See Report of Investigation, page 11)
- b) An e-mail sent from Ms. Karr to Mr. Eyman on January 2, 2000, discussed assets of Permanent Offense PAC. She continued with discussions about the creation of a separate corporation. She stated: “As you said, the company will exist as an accounting entity to transfer funds to you.” (See Report of Investigation, page 12)
- c) Mr. Eyman sent Ms. Karr an e-mail on January 30, 2000, in which he said that he wanted to begin the official payment to Permanent Offense Inc. by both initiatives (Permanent Offense PAC and Traffic Improvement Initiative Committee). He stated that: “My goal is from January 1, 2000 to December 31, 2000, that Permanent Offense will distribute to Tim a total of \$100,000 over and above expense reimbursement... We can keep the disbursements steady throughout or start out smaller and spike it after the signatures are submitted, whatever keeps our reserves adequate to accomplish our goals.” (See Report of Investigation, page 13)
- d) After the corporation was created, Ms. Karr sent Mr. Eyman an e-mail, dated March 10, 2000, in which she stated: “This is our first C4 with the Permanent Offense payments, so we will see if we get any flack about it... If you get questioned you can continue to refer them to me. I plan to say that we just got too big to be able to operate on a volunteer basis. We have to create some kind of professional organization if we plan to continue to operate the way we have & that requires money.” (See Report of Investigation, page 13)
- e) In a February 3, 2002 Associated Press article, Tim Eyman was quoted as saying: “Permanent Offense Inc. organization was set up to have a way to cover the fact that I was making money sponsoring initiatives, and none of my co-sponsors knew that was the case.” (See Report of Investigation, page 29)
- f) On February 4, 2002, Mr. Eyman held a press conference. During the press conference, he admitted that he had lied about receiving payment or compensation for working on initiatives. Mr. Eyman had maintained over the years that he was acting as an unpaid volunteer for the initiatives. He stated to the press that “This entire charade was set up so I could maintain a moral superiority over opposition, so I could say our opponents make money from politics and I don’t.” (See Report of Investigation, page 30)

Concealment of campaign expenditures was accomplished by billing Permanent Offense PAC and Traffic Improvement Initiative Committee for “Management/Consulting Services” and other “Professional Services” and using that money to compensate Tim Eyman. Staff maintains that

falsifying reports is one way to accomplish concealment. Manipulating the system to frustrate full disclosure, to hide the truth, is another. That's what occurred in this case.

- g) In 2000, as treasurer, Suzanne Karr moved \$60,616.40 from Permanent Offense PAC and Traffic Improvement Initiative Committee to Permanent Offense, Inc. for "Management/Consulting Services" and other "Professional Services" by creating Permanent Offense, Inc. invoices and then paying them with Permanent Offense PAC funds.
- h) In 2000, Mr. Eyman was compensated as an employee \$54,141.85. As 51% shareholder, Mr. Eyman earned profits of approximately \$400. As 49% shareholder, Ms. Karr also earned profits of approximately \$400. She disputes that she was notified of this by the corporation, and did not claim this as income for tax purposes.
- i) In 2001, Tim Eyman moved \$165,491.78 from Permanent Offense PAC to Permanent Offense, Inc. for "Management/Consulting Services" and other "Professional Services" by creating Permanent Offense, Inc. invoices and then paying them with Permanent Offense PAC funds.
- j) In 2001, Mr. Eyman was compensated as an employee \$5,000.00. Although the exact amount of the profits are unknown at this time, as 100% shareholder in 2001 (Ms. Karr having severed her ownership relationship with the corporation in 2000), it is estimated the profits approximate \$150,000 based on revenue of \$165,492 and known corporate expenses of \$14,112.

Failure to properly report campaign expenditures, including the purpose of those expenditures – RCW 42.17.080 and 42.17.090.

During 2000, Suzanne Karr was treasurer of Permanent Offense PAC and Traffic Improvement Initiative Committee. Staff maintains that Ms. Karr violated RCW 42.17.080 and .090 when she:

- k) Failed to report in-kind contributions for management, accounting and database services received by Permanent Offense PAC and Traffic Improvement Initiative Committee from Permanent Offense, Inc. between August and November, 2000. The actual amounts are unknown; however, based on the formula Ms. Karr used when she reported the transfers of funds previously, 25% of contributions received and 8% of expenditures made, it appears that \$39,769.11 for Permanent Offense PAC and \$33,348.42 for Traffic Improvement Initiative Committee, for a total of \$73,117.53, was not reported as in-kind contributions.
- l) Failed to report "orders placed, debts and obligations" for Permanent Offense PAC and Traffic Improvement Committee. Ms. Karr stated during her interview that she never reported any orders placed, debts or obligations as they were incurred because the committees always had funds and she knew the bills would be paid eventually. She stated "I was negligent in accruing any kind of liability for any vendor, not just Permanent Offense...I was not nitpicky about accruals like I would have been in a

normal accounting system.” The amount is not currently known. This information did not come to light until Ms. Karr’s interview of March 28, 2000, and because of the time limitations placed on staff due to the citizen action letter, invoices were not reviewed.

Staff maintains that Permanent Offense PAC violated RCW 42.17.080 and .090 when it:

- m) Failed to report in-kind contributions estimated at \$39,769 for management, accounting and database services from Permanent Offense, Inc. between August and November, 2000.
- n) Failed to report “orders placed, debts and obligations.” Ms. Karr stated during her interview that she never reported any orders placed for either committee. This information did not come to light until Ms. Karr’s interview of March 28, 2000, and because of the time limitations placed on staff due to the citizen action letter, invoices were not reviewed.

Staff also maintains that in 2001, Tim Eyman and Permanent Offense PAC failed to report in-kind contributions from Permanent Offense, Inc, when it paid \$4,145 to Hawthorne & Co. between May 10, 2001 and August 13, 2001 for work performed for Permanent Offense PAC, thus violating RCW 42.17.080 and .090.

Use of campaign funds for personal use – RCW 42.17.125

Staff maintains that Tim Eyman violated RCW 42.17.125 when he sought and received reimbursement from Permanent Offense PAC for expenditures not related to PAC activities. Prior to 2001, Mr. Eyman submitted reimbursement requests to Suzanne Karr, who reviewed them and paid only those that she determined were legitimate PAC expenses.

In 2001, Mr. Eyman submitted reimbursement requests to himself, and paid himself with PAC funds. In addition, Mr. Eyman paid personal expenses and those related to another business he owns (Insignia Corp.) directly out of PAC funds.

- o) During 2001, Mr. Eyman reimbursed himself with Permanent Offense PAC funds for multiple questionable expenditures, including \$11,567.32 in postage expenses with no postal service invoices. He was unable to account for postal reimbursements of \$2,800 and \$5,600, but acknowledged that these could have been for Insignia Corp. business or his personal use. In 2001, Permanent Offense PAC paid \$213.93 to Winstar, an e-mail and website service provider for Insignia Corp.
- p) In numerous instances, reimbursements had no documentation (such as invoices or receipts) other than Mr. Eyman’s notations on a typed list. For example, one receipt listed \$60 for cab fare and Mr. Eyman doubled the reimbursement amount with a handwritten notation indicating a return trip and was reimbursed \$120.

- q) Although Mr. Eyman submitted receipts for numerous other expenses, there was frequently insufficient information to determine if the expenses were for Permanent Offense PAC or for his personal business. An example is a \$1,326.46 reimbursement for printing in 2001. In one instance, Mr. Eyman submitted two separate parking receipts for the same date and time when he was attending a convention for his watch business in California.
- r) Mr. Eyman ran Permanent Offense PAC, Insignia Corp. and Permanent Offense, Inc. out of the same location. Mr. Eyman stated that he used supplies purchased by Permanent Offense PAC and Traffic Improvement Initiative for all three entities, as well as for his personal use. He also stated that he used equipment (computers, copiers, fax machines, and cell phones) purchased by Permanent Offense PAC for Insignia business and personal business.
- s) Mr. Eyman received reimbursement for automobile maintenance on a vehicle he considered the primary family vehicle. A portion of those costs should have been paid by him personally.

Failure to keep campaign records - RCW 42.17.065

Staff maintains that in 2001 Tim Eyman and Permanent Offense PAC violated RCW 42.17.065 when they failed to keep adequate campaign records, including documentation for reimbursements for phone bills, postage, and mileage expenses. Receipts for reimbursements paid to Tim Eyman were not detailed enough to determine the purpose of the expenditure. For example, the front page of a phone bill was included in the records, but the attachments showing each number called was not included. A credit card receipt was included for postage reimbursement, but no receipt from the post office was included.

Failure to designate and report Tim Eyman as Treasurer of Permanent Offense PAC— RCW 42.17.040 and .050

During 2001, Karen Eyman was designated as treasurer of record and signed reports. However, the evidence suggests that Ms. Eyman did not initiate, authorize or approve campaign expenditures for Permanent Offense PAC, nor did she review reports filed by Permanent Offense PAC for accuracy or completeness. Evidence obtained during the investigation indicated that Tim Eyman had sole control of all financial aspects of the campaign, including the checkbook, and that he initiated, authorized or approved all campaign expenditures.

Staff maintains that Permanent Offense PAC violated RCW 42.17.050 when it failed to designate Tim Eyman as campaign treasurer.

Staff maintains that Permanent Offense PAC violated RCW 42.17.040 when it failed to amend its Committee Registration Statement showing Tim Eyman as treasurer.

Reimbursement for a contribution – RCW 42.17.780

Staff maintains that Tim Eyman and Permanent Offense PAC violated RCW 42.17.780 when they reimbursed Tim Eyman for the following contributions:

- t) \$500 to the Republican National Committee on August 24, 2000 and
- u) \$60 to the No on I-747 Committee on October 26, 2001.

Monte Benham, Mike Fagan and Jack Fagan –

The investigation revealed no evidence that these individuals acted in a way to effect concealment, or that they personally violated the provisions of chapter 42.17 RCW.

Karen Eyman -

The investigation revealed no evidence that Karen Eyman acted in a way to effect concealment, or that she personally violated the provisions of chapter 42.17 RCW. However, she did sign reports as treasurer that contained information related to the transfer of funds from Permanent Offense PAC to Permanent Offense, Inc.

Summary

Staff recommends the Commission find **Tim Eyman** in apparent violations of the following provisions:

- RCW 42.17.120 by concealing compensation paid to himself from Permanent Offense PAC through Permanent Offense, Inc. for services he provided to Permanent Offense PAC;
- RCW 42.17.125 by using Permanent Offense PAC campaign funds to pay expenses for Insignia Corp., as well as his own personal expenses;
- RCW 42.17.065 by failing to keep adequate campaign records to substantiate reimbursements to himself;
- RCW 42.17.080 and .090 by failing to report in-kind contributions Permanent Offense Inc. provided to Permanent Offense PAC;
- RCW 42.17.780 by reimbursing himself with Permanent Offense PAC funds for campaign contributions.

Staff recommends the Commission find **Suzanne Karr** in apparent violations of the following provisions:

- RCW 42.17.120 by concealing compensation paid to Tim Eyman from Permanent Offense PAC through Permanent Offense, Inc. for services he provided to Permanent Offense PAC;

- RCW 42.17.080 and .090 by failing to report in-kind contributions Permanent Offense Inc. provided to Permanent Offense PAC, and by failing to report orders placed, debts and obligations for Permanent Offense PAC and Traffic Improvement Initiative Committee; and

Staff recommends the Commission find **Permanent Offense PAC** in apparent violations of the following provisions:

- RCW 42.17.080 and .090 by failing to report in-kind contributions Permanent Offense Inc. provided to Permanent Offense PAC, and by failing to report orders placed, debts and obligations;
- RCW 42.17.065 by failing to keep adequate campaign records to substantiate reimbursements to Tim Eyman;
- RCW 42.17.040 and .050 by failing to designate and report Tim Eyman as its treasurer; and
- RCW 42.17.780 by reimbursing Tim Eyman for campaign contributions.

If apparent violations are found, staff recommends that the Commission refer the matters to the Office of the Attorney General for further action.

Regarding Monte Benham, Jack Fagan, Mike Fagan and Karen Eyman (individuals listed in the citizen action letter), staff requests that the Commission recommend that the Office of the Attorney General take no further action.

Regarding Traffic Improvement Initiative Committee, staff is withdrawing its allegations and recommends the Commission advise the Office of the Attorney General to take no further action regarding this committee (since the committee filed its final report on December 11, 2000.)

Staff is withdrawing its allegation (#4) regarding Permanent Offense Inc. failing to register and report as a political committee.